

**2009 DRAFTING REQUEST**

**Senate Substitute Amendment (SSA-SB434)**

Received: **03/16/2010**

Received By: **btradewe**

Wanted: **Today**

Companion to LRB:

For: **Kathleen Vinehout (608) 266-8546**

By/Representing: **David Lovell, Leg. Council**

May Contact:

Drafter: **btradewe**

Subject: **Agriculture - food safety**

Addl. Drafters:

Extra Copies:

Submit via email: **YES**

Requester's email: **Sen.Vinehout@legis.wisconsin.gov**

Carbon copy (CC:) to: **David.Lovell@legis.wisconsin.gov**

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**Pre Topic:**

No specific pre topic given

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**Topic:**

Sale of raw milk with sunset

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/P1	btradewe 03/16/2010	kfollett 03/16/2010	mduchek 03/16/2010	_____	lparisi 03/16/2010		
/1	btradewe 03/17/2010	kfollett 03/17/2010	jfrantze 03/17/2010	_____	lparisi 03/17/2010	lparisi 03/17/2010	

FE Sent For:

**<END>**

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/P1	btradewe 03/16/2010	kfollett 03/16/2010	mduchek 03/16/2010	_____	lparisi 03/16/2010		

FE Sent For:

115f  
3H7  
3/17  
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/?	btradewe	1P16f 3/16	ND 3/16	==			

FE Sent For:

<END>

**Tradewell, Becky**

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**From:** Lovell, David  
**Sent:** Monday, March 15, 2010 5:51 PM  
**To:** Tradewell, Becky  
**Cc:** Nilsestuen, Joel  
**Subject:** FW: Raw milk draft

**Attachments:** 0453/3

Becky,

I left you a voice message about the need for a substitute amendment to SB 434, the raw milk bill, for an exec on Wednesday. I am working with Senator Vinehout and others on drafting instructions, but they can't be finalized until a conversation with DATCP staff tomorrow morning. I will get instructions to you as soon after that conversation as I can. In the mean time, if it is of use to you, I am sending you the draft I have prepared which is the basis of current discussions.

If you would like to be part of the conversation with DATCP tomorrow, to get a flavor of this request, I expect that Senator Vinehout would be very open to including you.

David

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

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**From:** Lovell, David  
**Sent:** Monday, March 15, 2010 2:58 PM  
**To:** Nilsestuen, Joel  
**Subject:** FW: Raw milk draft

Joel,

Here's /3. I suggest you e-mail it to Mattson and have him call me. I'll stick around 'til 5 or so.

David

---

David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537

---

**From:** Learned, Julie  
**Sent:** Monday, March 15, 2010 2:56 PM  
**To:** Lovell, David  
**Subject:** Raw milk draft



04533.pdf (18 KB)

**Julie Learned**

**Legislative Council Staff**  
**One East Main St., Suite 401**  
**(608) 266-2985**

**SENATE SUBSTITUTE AMENDMENT ,  
TO 2009 SENATE BILL 434**

1     **AN ACT** *to create* 97.22 (3) (b), 97.24 (2g) and 97.24 (2r) of the statutes; **relating to:**  
2             interim permits for the sale of raw milk.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**JOINT LEGISLATIVE COUNCIL STAFF PREFATORY NOTE:** This draft substitute amendment replaces the permanent policy proposed in Senate Bill 434, allowing the sale of unpasteurized milk, with an interim program lasting approximately 2 years. The concept of the interim program is to allow continued, limited sales of unpasteurized milk while studies, in the legislative and executive branches, can be conducted to develop a permanent policy.

The draft authorizes the holder of a grade A dairy permit to apply for and obtain an interim permit for the sale of unpasteurized cow, goat, or sheep milk. The permit applies only to the sale of fluid milk; the sale must be made by the producer of the milk and must take place on the farm where the milk is produced. The producer is not allowed to advertise the availability of unpasteurized milk for sale.

The draft imposes additional requirements on the production and sale of unpasteurized milk for human consumption. These requirements relate to the health status of the producer's dairy cattle, compliance with microbiological standards, preservation of daily samples of the milk offered for sale, record keeping that allows the identification of purchasers of each day's milk production, containers for the milk sold and a health advisory to be posted at the place of sale and affixed to the milk container.

The draft also specifies that, if a milk producer holds both a grade A dairy permit and a permit to sell unpasteurized milk, the Department of Agriculture, Trade and Consumer Protection (DATCP) may not make the producer's grade A dairy permit contingent on making deliveries to a licensed dairy plant.

The draft directs the DATCP to promulgate emergency rules specifying forms and procedures for applying for and receiving permits to sell unpasteurized milk.

1        **SECTION 1.** 97.22 (3) (b) of the statutes is created to read:

2        97.22 (3) (b) *Permit for sale of unpasteurized milk not contingent on delivery to dairy*  
3        *plant.* The department may not make a permit under this subsection contingent on the delivery  
4        of milk by the permit holder to a dairy plant licensed under s. 97.20 (2) if the permit holder  
5        holds a permit to sell unpasteurized milk under s. 97.24 (2g).

NOTE: The purpose of this provision is to reverse the policy contained in s. ATCP 60.03 (6) that the DATCP shall revoke a milk producer's grade A dairy permit if the producer does not ship milk to a dairy plant in any 60-day period. Note that the Legislative Reference Bureau may choose to draft this (as well as other provisions of this draft) in a different manner.

6        **SECTION 2.** 97.24 (2g) of the statutes is created to read:

7        97.24 (2g) SALE OF UNPASTEURIZED FLUID MILK FOR HUMAN CONSUMPTION; INTERIM  
8        PERMITS. (a) The department shall issue permits to sell unpasteurized fluid milk for the  
9        purpose of par. (b). The department shall issue a permit under this paragraph, upon request,  
10       to a milk producer who meets all of the following requirements:

11       1. The milk producer holds a grade A dairy permit under s. 97.22 (3).

12       2. If the milk producer produces cow's milk, the milk producer's dairy herd is certified  
13       by the department as free of bovine tuberculosis and brucellosis and the milk producer  
14       participates in the department's Johnes disease control program.

15       (b) Notwithstanding subs. (2) (b) and (3), a milk producer may sell unpasteurized fluid  
16       milk if all of the following apply:

17       1. The milk producer has a permit to sell unpasteurized fluid milk under par. (a).

18       2. The milk is both produced and sold on the farm operated by the milk producer.

1           3. All sales are to end consumers and not for resale.

2           4. Except for signage on the milk producer's premises, the milk producer does not  
3 advertise the availability of unpasteurized milk for sale.

4           5. The producer complies with all requirements of his or her grade A dairy farm permit  
5 and the requirements specified in sub. (2r).

6           6. At the place where the milk is sold, the milk producer displays a sign that is easy for  
7 a consumer to read and that states: "Raw milk sold here. Raw milk does not provide the  
8 benefits of pasteurization. Individuals with suppressed or compromised immune systems,  
9 including individuals with diabetes or HIV/AIDS and individual undergoing chemotherapy  
10 or radiation therapy, pregnant or nursing women, and the very young or very old should not  
11 consume raw milk."

12           7. Either the milk producer or the consumer provides a sanitary container for the milk  
13 that has been prepared in a sanitary manner and the container is filled in a sanitary manner.  
14 The milk producer shall affix to the container a label that includes the statement under subd.  
15 6., the name, address, and raw milk sales permit number of the milk producer, and the date of  
16 the sale.

17           (c) This subsection does not apply after June 30, 2012.

18           **SECTION 3.** 97.24 (2r) of the statutes is created to read:

19           **97.24 (2r)** PRODUCTION OF UNPASTEURIZED FLUID MILK INTENDED FOR HUMAN  
20 CONSUMPTION. A milk producer who sells unpasteurized fluid milk for human consumption  
21 under sub. (2g) shall do all of the following:

22           (a) Daily take a representative sample of the unpasteurized milk the milk producer  
23 offers for sale and preserve the sample in a frozen state for not less than 10 days.



(b) For each sale, maintain a record for not less than one year of the name and address of the purchaser and the date of the sale.

(c) In any month that the milk producer does not deliver milk to a dairy plant licensed under s. 97.20 (2), obtain a microbiological analysis of a representative sample of the milk the milk producer offers for sale. If the analysis indicates a plate count in excess of 750,000 per ml., the milk producer shall notify the department of the analysis.

(d) Make samples under par. (a) and records under pars. (b) and (c) available for inspection by the department upon reasonable notice.

**SECTION 4. Nonstatutory provisions.** (1) Not later than the first day of the first month beginning after the effective date of this subsection, using the procedures under section 227.24, the department of agriculture, trade, and consumer protection shall promulgate a rule specifying forms and procedures for milk producers to apply for and receive permits to sell unpasteurized milk for human consumption under section 97.24 (2g) of the statutes, as created by this act. Notwithstanding section 227.24 (1) of the statutes., the department of agriculture, trade, and consumer protection does not need to make a finding of emergency. Notwithstanding section 227.24 (1) (d) of the statutes, the rule under this subsection shall remain in effect until July 1, 2012.

**(END)**

## STATE OF WISCONSIN - LEGISLATIVE REFERENCE BUREAU

LRB

Research (608-266-0341)

Library (608-266-7040)

Legal (608-266-3561)

LRB

3/16/2010 Per David Lovell - Sen. Vinehout needs a substitute amendment to SB 434 for exec. tomorrow - Needs by 10 a.m., but would prefer to have it today.

3 changes from WLC: 0453/3!

1. Page 3, line 17 - change date to 12/31/2011.
2. Page 3, line 23 - change to "15 days or for the period specified by the department by rule."
3. Page 4, lines 4-6: require the producer to obtain whatever analyses ~~are~~ that a dairy plant would be required to do and provide them to the department.

no-see later instructions

3/16/2010 Additional instructions from David Lovell

1. Leave out proposed s 97.22(3)(6) and the related language at page 4, lines 3 to 6.

2. Add pathogen testing requirement - monthly test which must show zero detected in a 25 gram sample of 4 pathogens: salmonella, campylobacter, listeria, e coli O157:H7

Must submit report <sup>letter</sup> to DATCP <sup>of results</sup>

Enforcement as in ATCP 60 - (failed 2 consecutive months → enforcement. - David will check

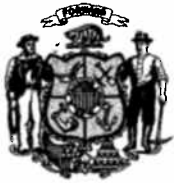
Require use of cert. field lab? I'll check

3. Instead of a permit, require producer to register - and to include documentation that the herd is brucella-free and tuberculosis-free (certified by DATCP) if cows (not sheep or goats)

4. Authorize DATCP to suspend registration for violating requirements in the draft

5. May omit John's disease if not able to describe "DATCP's program"

6. Add sentence to p. 3, line 8: Raw milk may contain bacteria that can cause illness.



State of Wisconsin  
2009 - 2010 LEGISLATURE

Today

LRBs0344/P1

RCT..

ef

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO 2009 SENATE BILL 434**

Note

Gen

- 1 AN ACT ...; **relating to:** the sale of unpasteurized milk, granting rule-making  
2 authority, providing an exemption from emergency rule procedures, and  
3 extending the time limit for emergency rules.

---

***Analysis by the Legislative Reference Bureau***

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk from cows, sheep, or goats for human consumption.

This substitute amendment authorizes a dairy farmer with a grade A dairy permit to sell unpasteurized milk on the farm to a consumer if the dairy farmer registers with the Department of Agriculture, Trade and Consumer Protection (DATCP) and satisfies other requirements specified in the substitute amendment. The authorization to sell unpasteurized milk for human consumption ends on December 31, 2011. If the milk is from cows, the farmer's herd must be certified by DATCP to be free of brucellosis and bovine tuberculosis. The farmer must keep daily samples of the milk, maintain records of each sale, and have the milk tested for certain disease-causing microorganisms, including Salmonella. The substitute amendment prohibits the farmer from advertising the availability of unpasteurized milk, except that it allows signs on the farm. The substitute amendment also requires the dairy farmer to provide information, on a sign where the milk is sold and

on the label of the milk container, concerning unpasteurized milk, including that unpasteurized milk may contain bacteria that can cause disease.

---

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

1       **SECTION 1.** 97.24 (2g) and (2r) of the statutes are created to read:

2       **97.24 (2g) INTERIM REGISTRATION FOR SALE OF UNPASTEURIZED MILK FOR HUMAN**  
3       **CONSUMPTION.** (a) A milk producer may register with the department to sell  
4       unpasteurized milk for the purposes of par. (b) if the milk producer meets all of the  
5       following requirements:

6           1. The milk producer holds a grade A dairy farm permit under s. 97.22 (3).

7           2. If the milk producer produces cow's milk, the milk producer's dairy herd is  
8       certified by the department as free of brucellosis and bovine tuberculosis and the  
9       milk producer submits documentation of that certification.

10          (b) Notwithstanding subs. (2) (b) and (3), a milk producer may sell  
11       unpasteurized milk for human consumption if all of the following apply:

12           1. The milk producer is registered to sell unpasteurized milk under par. (a).

13           2. The milk is produced and sold on the farm operated by the milk producer.

14           3. All sales are to individuals who will consume the milk and are not for resale.

15           4. Except for signs on the milk producer's farm, the milk producer does not  
16       advertise the availability of unpasteurized milk for sale.

17           5. The milk producer complies with all of the requirements of the milk  
18       producer's grade A dairy farm permit and the requirements in sub. (2r).

19           6. At the place where the milk is sold, the milk producer displays a sign that  
20       is easy for a consumer to read and that states: "Raw milk does not provide the  
21       benefits of pasteurization. Raw milk may contain bacteria that can cause illness.

1 Individuals with suppressed or compromised immune systems, including  
2 individuals with diabetes or HIV/AIDS and individuals undergoing chemotherapy  
3 or radiation therapy, women who are pregnant or nursing, and the very young or very  
4 old should not consume raw milk.”

5 7. Either the milk producer or the consumer provides a sanitary container for  
6 the milk that has been prepared in a sanitary manner and the container is filled in  
7 a sanitary manner.

8 8. The milk producer affixes to the container a label that includes the statement  
9 in subd. 6., the name and address of the milk producer, and the date of the sale.

10 (c) The department may suspend the registration under par. (a) of a milk  
11 producer who violates this subsection or sub. (2r).

12 (d) The department may suspend the registration under par. (a) of a milk  
13 producer when 2 of the last 4 test results provided to the department under sub. (2r)

14 (c) detect any of the pathogens listed in sub. (2r) (c) in a 25 gram sample.

15 (d) The department shall promulgate rules specifying registration forms for  
16 par. (a) and procedures for administration of and compliance with this subsection  
17 and sub. (2r).

18 (e) This subsection does not apply after December 31, 2011.

19 (2r) PRODUCTION OF UNPASTEURIZED MILK INTENDED FOR HUMAN CONSUMPTION. A  
20 milk producer who sells unpasteurized milk for human consumption under sub. (2g)  
21 shall do all of the following:

22 (a) Every day that the producer offers unpasteurized milk for sale for human  
23 consumption, take a representative sample of the unpasteurized milk, freeze the  
24 sample, and preserve the frozen sample for not less than 15 days or for another period  
25 specified by the department by rule.

1 (b) For each sale of unpasteurized milk for human consumption, make a record  
2 of the name and address of the purchaser and the date of sale and maintain the record  
3 for not less than one year.

4 (c) Each month obtain obtain a test of a representative 25 gram sample of the  
5 unpasteurized milk for Salmonella, Campylobacter, Listeria, and Escherichia coli  
6 O157:H7 and provide the results to the department.

7 (d) Make samples under par. (a) and records under par. (c) available for  
8 inspection by the department upon reasonable notice.

9 **SECTION 2. Nonstatutory provisions.**

10 (1) RULE MAKING. No later than the first day of the 2nd month beginning after  
11 the effective date of this subsection, using the procedure under section 227.24 of the  
12 statutes, the department<sup>of agriculture, trade and consumer protection</sup> shall promulgate the rules required under section 97.24  
13 (2g) (d) of the statutes, as created by this act. Notwithstanding section 227.24 (1) (c)  
14 and (2) of the statutes, emergency rules promulgated under this subsection remain  
15 in effect until January 1, 2012. Notwithstanding section 227.24 (1) (a) and (3) of the  
16 statutes, the department is not required to provide evidence that promulgating a rule  
17 under this paragraph as an emergency rule is necessary for the preservation of the  
18 public peace, health, safety, or welfare and is not required to provide a finding of  
19 emergency for a rule promulgated under this paragraph.

20 (END)

DNote

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0344/P1dn

RCT..

kgf

date

This is a preliminary version of the substitute amendment concerning raw milk. There may need to be more added to the draft concerning suspension of registration based on the results of tests of the milk for e. coli and the other microorganisms, but I wanted to get the draft out as soon as possible for review.

Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: becky.tradewell@legis.wisconsin.gov



**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBs0344/P1dn  
RCT:kjf:md

March 16, 2010

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Please contact me with any questions or redraft instructions.

Rebecca C. Tradewell  
Managing Attorney  
Phone: (608) 266-7290  
E-mail: [becky.tradewell@legis.wisconsin.gov](mailto:becky.tradewell@legis.wisconsin.gov)

## Tradewell, Becky

---

**From:** Lovell, David  
**Sent:** Wednesday, March 17, 2010 9:28 AM  
**To:** Tradewell, Becky  
**Cc:** Nilsestuen, Joel; Sen. Vinehout; Matson, James K - DATCP  
**Subject:** Revisions to LRBs0344/P1

Becky,

I have spoken to Senator Vinehout, who asks that LRBs0344/P1 be revised as follows and jacketed for introduction:

- ✓ Page 2: delete lines 7-9 (and make whatever corresponding revisions are needed to lines 2-6).
- ✓ Page 3, line 1: delete "bacteria that can cause illness" and substitute "disease-causing pathogens".
- ✓ Page 4, line 6, after "obtain a test" insert "from a laboratory approved by the department" (or other wording to that effect).

In addition, I have two technical observations:

- ✓ Page 4, line 9: I think the reference to par. (c) should be replaced with a reference to par. (b).
- ✓ Page 4, line 22: should the reference to "this paragraph" be, instead, to "this subsection"?

Finally, Jim Matson, DATCP General Counsel, requested a number of changes to ensure that various results did not occur. To give just one example, he wanted language to ensure that the draft does not "authorize raw milk sellers to manufacture and sell butter, cheese, yogurt or other fluid or non-fluid dairy products without a dairy plant license under s. 97.20." I explained to him (and Senator Vinehout reiterated this explanation in a later conversation with him) that it is unreasonable to read a statute to have an effect that it does not state. In the instant example, this draft does not affect the dairy plant license requirements; it authorizes the sale of raw milk in limited circumstances and does nothing more. I explained that it is dangerous drafting to specify that a statute does not have some effect that its plain language clearly does not create, in anticipation of hypothetical litigation. If this were done, then future litigation could claim that some other effect not clear from its plain language must have been intended by the Legislature -- having said that it does not do one thing unrelated to its text, anything other thing it doesn't so proscribe the Legislature surely must have intended. From this logic, there is no end to the "clarifying" language needed. We must rely on what the statutes say, clear drafting, and the common sense interpretation that the statutes do not mean things that they clearly do not say. Senator Vinehout directed that such "clarifications" **not** be included in the redraft.

Thanks, Becky -- I'll review the redraft as soon as I receive it.

David

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David L. Lovell, Senior Analyst  
Wisconsin Legislative Council Staff  
608/266-1537



State of Wisconsin  
2009 - 2010 LEGISLATURE

LRBs0344/R1  
RCT:kjf:md

Now

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE SUBSTITUTE AMENDMENT ,**  
**TO 2009 SENATE BILL 434**

Reger

- 1 AN ACT *to create* 97.24 (2g) and (2r) of the statutes; **relating to:** the sale of  
2 unpasteurized milk, granting rule-making authority, providing an exemption  
3 from emergency rule procedures, and extending the time limit for emergency  
4 rules.

***Analysis by the Legislative Reference Bureau***

Current law generally prohibits the sale of unpasteurized (commonly called raw) milk from cows, sheep, or goats for human consumption.

This substitute amendment authorizes a dairy farmer with a grade A dairy permit to sell unpasteurized milk on the farm to a consumer if the dairy farmer registers with the Department of Agriculture, Trade and Consumer Protection (DATCP) and satisfies other requirements specified in the substitute amendment. The authorization to sell unpasteurized milk for human consumption ends on December 31, 2011. If the milk is from cows, the farmer's herd must be certified by DATCP to be free of brucellosis and bovine tuberculosis. The farmer must keep daily samples of the milk, maintain records of each sale, and have the milk tested for certain disease-causing microorganisms, including Salmonella. The substitute amendment prohibits the farmer from advertising the availability of unpasteurized

To sell unpasteurized milk, a

milk, except that it allows signs on the farm. The substitute amendment also requires the dairy farmer to provide information, on a sign where the milk is sold and on the label of the milk container, concerning unpasteurized milk, including that unpasteurized milk may contain ~~bacteria~~ *organisms* that can cause disease.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

SECTION 1. 97.24 (2g) and (2r) of the statutes are created to read:

97.24 (2g) INTERIM REGISTRATION FOR SALE OF UNPASTEURIZED MILK FOR HUMAN CONSUMPTION. (a) A milk producer may register with the department to sell unpasteurized milk for the purposes of par. (b) if the milk producer meets all of the following requirements:

1. The milk producer holds a grade A dairy farm permit under s. 97.22 (3).
2. If the milk producer produces cow's milk, the milk producer's dairy herd is certified by the department as free of brucellosis and bovine tuberculosis and the milk producer submits documentation of that certification.

(b) Notwithstanding subs. (2) (b) and (3), a milk producer may sell unpasteurized milk for human consumption if all of the following apply:

1. The milk producer is registered to sell unpasteurized milk under par. (a).
2. The milk is produced and sold on the farm operated by the milk producer.
3. All sales are to individuals who will consume the milk and are not for resale.
4. Except for signs on the milk producer's farm, the milk producer does not advertise the availability of unpasteurized milk for sale.
5. The milk producer complies with all of the requirements of the milk producer's grade A dairy farm permit and the requirements in sub. (2r).
6. At the place where the milk is sold, the milk producer displays a sign that is easy for a consumer to read and that states: "Raw milk does not provide the

*disease-causing pathogens*

1 benefits of pasteurization. Raw milk may contain bacteria that can cause illness 9

2 Individuals with suppressed or compromised immune systems, including  
3 individuals with diabetes or HIV/AIDS and individuals undergoing chemotherapy  
4 or radiation therapy, women who are pregnant or nursing, and the very young or very  
5 old should not consume raw milk.”

6 7. Either the milk producer or the consumer provides a sanitary container for  
7 the milk that has been prepared in a sanitary manner and the container is filled in  
8 a sanitary manner.

9 8. The milk producer affixes to the container a label that includes the statement  
10 in subd. 6., the name and address of the milk producer, and the date of the sale.

11 (c) The department may suspend the registration under par. (a) of a milk  
12 producer who violates this subsection or sub. (2r).

13 (d) The department may suspend the registration under par. (a) of a milk  
14 producer when 2 of the last 4 test results provided to the department under sub. (2r)

15 (c) detect any of the pathogens listed in sub. (2r) (c) in a 25 gram sample.

16 (e) The department shall promulgate rules specifying registration forms for  
17 par. (a) and procedures for administration of and compliance with this subsection  
18 and sub. (2r).

19 (f) This subsection does not apply after December 31, 2011.

20 **(2r) PRODUCTION OF UNPASTEURIZED MILK INTENDED FOR HUMAN CONSUMPTION.** A  
21 milk producer who sells unpasteurized milk for human consumption under sub. (2g)  
22 shall do all of the following:

23 (a) Every day that the producer offers unpasteurized milk for sale for human  
24 consumption, take a representative sample of the unpasteurized milk, freeze the

1 sample, and preserve the frozen sample for not less than 15 days or for another period  
2 specified by the department by rule.

3 (b) For each sale of unpasteurized milk for human consumption, make a record  
4 of the name and address of the purchaser and the date of sale and maintain the record  
5 for not less than one year.

6 (c) Each month obtain a test *From a laboratory approved by the department* of a representative 25 gram sample of the  
7 unpasteurized milk for Salmonella, Campylobacter, Listeria, and Escherichia coli  
8 O157:H7 and provide the results to the department.

9 (d) Make samples under par. (a) and records under par. *g b ✓* (c) available for  
10 inspection by the department upon reasonable notice.

11 **SECTION 2. Nonstatutory provisions.**

12 (1) RULE MAKING. No later than the first day of the 2nd month beginning after  
13 the effective date of this subsection, using the procedure under section 227.24 of the  
14 statutes, the department of agriculture, trade and consumer protection shall  
15 promulgate the rules required under section 97.24 (2g) (e) of the statutes, as created  
16 by this act. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, emergency  
17 rules promulgated under this subsection remain in effect until January 1, 2012.  
18 Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the department is not  
19 required to provide evidence that promulgating a rule under this paragraph as an  
20 emergency rule is necessary for the preservation of the public peace, health, safety,  
21 or welfare and is not required to provide a finding of emergency for a rule  
22 promulgated under this paragraph *subsection*

23 (END)